

ASSEMBLY BILL

No. 2292

Introduced by Assembly Member Garrick

February 21, 2008

An act to amend Sections 17072, 17215, and 19184 of, to amend and repeal Sections 17131.4, 17131.5, 17215.1, and 17215.4 of, and to add Sections 17138.5, 17138.6, and 17216 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2292, as introduced, Garrick. Income tax: health savings accounts.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would, for taxable years beginning on and after January 1, 2008, allow a deduction in connection with health savings accounts in conformity with federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would, for taxable years beginning on and after January 1, 2008, also provide related conformity to that federal law with respect to treatment of the account as a tax-exempt trust, the allowance of rollovers from Archer Medical Savings Accounts, health flexible spending arrangements, or health reimbursement accounts to a health savings account, and penalties in connection therewith.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17072 of the Revenue and Taxation Code
2 is amended to read:

3 17072. (a) Section 62 of the Internal Revenue Code, relating
4 to adjusted gross income defined, shall apply, except as otherwise
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
7 to certain expenses of elementary and secondary school teachers,
8 shall not apply.

9 (c) *The deduction allowed by Section 17216, relating to health*
10 *savings accounts, is allowed in computing adjusted gross income.*

11 (d) *The amendments made to this section by the act adding this*
12 *subdivision shall apply only to taxable years beginning on or after*
13 *January 1, 2008.*

14 SEC. 2. Section 17131.4 of the Revenue and Taxation Code
15 is amended to read:

16 17131.4. (a) Section 106(d) of the Internal Revenue Code,
17 relating to contributions to health savings accounts, shall not apply.

18 (b) *This section shall apply to taxable years beginning on or*
19 *after January 1, 2005, and before January 1, 2008. This section*
20 *shall remain in effect only until January 1, 2013, and as of that*
21 *date is repealed.*

22 SEC. 3. Section 17131.5 of the Revenue and Taxation Code
23 is amended to read:

24 17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue
25 Code, relating to the exception for health savings accounts, shall
26 not apply.

27 (b) *This section shall apply to taxable years beginning on or*
28 *after January 1, 2005, and before January 1, 2008. This section*
29 *shall remain in effect only until January 1, 2013, and as of that*
30 *date is repealed.*

31 SEC. 4. Section 17138.5 is added to the Revenue and Taxation
32 Code, to read:

33 17138.5. For taxable years beginning on or after January 1,
34 2008, Section 106 of the Internal Revenue Code, as amended by
35 Section 302 of the Tax Relief and Health Care Act (TRHCA) of
36 2006 (Public Law 109-432), relating to health savings accounts,
37 shall apply, except as otherwise provided.

1 SEC. 5. Section 17138.6 is added to the Revenue and Taxation
2 Code, to read:

3 17138.6. For taxable years beginning on or after January 1,
4 2008, Section 125 of the Internal Revenue Code, as amended by
5 Section 1201 of the Medicare Prescription Drug, Improvement,
6 and Modernization Act of 2003 (Public Law 108-173), relating to
7 health savings accounts, shall apply, except as otherwise provided.

8 SEC. 6. Section 17215 of the Revenue and Taxation Code is
9 amended to read:

10 17215. (a) Section 220(a) of the Internal Revenue Code,
11 relating to deduction allowed, is modified to provide that the
12 amount allowed as a deduction shall be an amount equal to the
13 amount allowed to that individual as a deduction under Section
14 220 of the Internal Revenue Code, relating to medical savings
15 accounts, on the federal income tax return filed for the same taxable
16 year by that individual.

17 (b) Section 220(f)(4) of the Internal Revenue Code, relating to
18 additional tax on distributions not used for qualified medical
19 expenses, is modified by substituting “10 percent” in lieu of “15
20 percent.”

21 (c) *Section 220(f)(5) of the Internal Revenue Code, as amended*
22 *by Section 1201(c) of the Medicare Prescription Drug,*
23 *Improvement, and Modernization Act of 2003 (Public Law*
24 *108-173), relating to permitted rollovers from Archer Medical*
25 *Savings Accounts, shall apply, except as otherwise provided.*

26 (d) *The amendments made to this section by the act adding this*
27 *subdivision shall apply to taxable years beginning on or after*
28 *January 1, 2008.*

29 SEC. 7. Section 17215.1 of the Revenue and Taxation Code
30 is amended to read:

31 17215.1. (a) Section 220(f)(5) of the Internal Revenue Code,
32 relating to rollover contributions, shall not apply.

33 (b) *This section shall apply to taxable years beginning on or*
34 *after January 1, 2005, and before January 1, 2008. This section*
35 *shall remain in effect only until January 1, 2013, and as of that*
36 *date is repealed.*

37 SEC. 8. Section 17215.4 of the Revenue and Taxation Code
38 is amended to read:

39 17215.4. (a) Section 223 of the Internal Revenue Code, relating
40 to health savings accounts, shall not apply.

1 **(b)** *This section shall apply to taxable years beginning on or*
2 *after January 1, 2005, and before January 1, 2008. This section*
3 *shall remain in effect only until January 1, 2013, and as of that*
4 *date is repealed.*

5 SEC. 9. Section 17216 is added to the Revenue and Taxation
6 Code, to read:

7 17216. For taxable years beginning on or after January 1, 2008,
8 all of the following apply:

9 (a) Section 223 of the Internal Revenue Code, as added by
10 Section 1201 of the Medicare Prescription Drug, Improvement,
11 and Modernization Act of 2003 (Public Law 108-173), and as
12 amended by Title III of the Tax Relief and Health Care Act
13 (TRHCA) of 2006 (Public Law 109-432), relating to health savings
14 accounts, shall apply, except as otherwise provided.

15 (b) Section 223(e)(1) of the Internal Revenue Code, as added
16 by Section 1201 of the Medicare Prescription Drug, Improvement,
17 and Modernization Act of 2003 (Public Law 108-173), shall be
18 modified by substituting the phrase “Section 17651” for the phrase
19 “Section 511 (relating to imposition of tax of unrelated business
20 income of charitable, etc., organizations),” contained therein.

21 (c) Section 223(f)(4)(A) of the Internal Revenue Code, as added
22 by Section 1201 of the Medicare Prescription Drug, Improvement,
23 and Modernization Act of 2003 (Public Law 108-173), shall be
24 modified by substituting “2 ½ percent” for “10 percent,” contained
25 therein.

26 SEC. 10. Section 19184 of the Revenue and Taxation Code is
27 amended to read:

28 19184. (a) A penalty of fifty dollars (\$50) shall be imposed
29 for each failure, unless it is shown that the failure is due to
30 reasonable cause, by any person required to file who fails to file
31 a report at the time and in the manner required by any of the
32 following provisions:

33 (1) Subdivision (c) of Section 17507, relating to individual
34 retirement accounts.

35 (2) Section 220(h) of the Internal Revenue Code, relating to
36 medical savings accounts for taxable years beginning on or after
37 January 1, 1997.

38 (3) *Section 233(h) of the Internal Revenue Code, as added by*
39 *Section 1201 of the Medicare Prescription Drug, Improvement,*

1 *and Modernization Act of 2003 (Public Law 108-173), relating to*
2 *health savings accounts.*

3 ~~(3)~~

4 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of
5 Section 23711 relating to qualified tuition programs.

6 ~~(4)~~

7 (5) Subdivision (e) of Section 23712, relating to Coverdell
8 education savings accounts.

9 (b) (1) Any individual who:

10 (A) Is required to furnish information under Section 17508 as
11 to the amount designated nondeductible contributions made for
12 any taxable year, and

13 (B) Overstates the amount of those contributions made for that
14 taxable year, shall pay a penalty of one hundred dollars (\$100) for
15 each overstatement unless it is shown that the overstatement is due
16 to reasonable cause.

17 (2) Any individual who fails to file a form required to be filed
18 by the Franchise Tax Board under Section 17508 shall pay a
19 penalty of fifty dollars (\$50) for each failure unless it is shown
20 that the failure is due to reasonable cause.

21 (c) Article 3 (commencing with Section 19031) of this chapter
22 (relating to deficiency assessments) shall not apply in respect of
23 the assessment or collection of any penalty imposed under this
24 section.

25 (d) *The amendments made to this section by the act adding this*
26 *subdivision shall apply to taxable years beginning on or after*
27 *January 1, 2008.*

28 SEC. 11. This act provides for a tax levy within the meaning
29 of Article IV of the Constitution and shall go into immediate effect.